



SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2019-0018]

Privacy Act of 1974; System of Records

AGENCY: Office of Program Law, Office of the General Counsel, Social Security Administration (SSA).

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act and our disclosure regulations we are issuing public notice of our intent to establish a new system of records entitled, Program Litigation File System (60-0278). This notice publishes details of the new system as set forth under the caption, SUPPLEMENTARY INFORMATION.

DATES: The system of records notice (SORN) is applicable upon its publication in today's Federal Register, with the exception of the routine uses, which are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. We invite public comment on the routine uses or other aspects of this SORN. In accordance with 5 U.S.C. 552a(e)(4) and (e)(11), the public is given a 30-day period in which to submit comments. Therefore, please submit any comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room G-401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, or through the Federal e-Rulemaking Portal at <https://www.regulations.gov/>, please reference docket number SSA-2019-0018. All comments we receive will be available for public inspection at the above address and we will post them to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Marcia O. Midgett, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, Room G-401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, telephone: (410) 966-3219, e-mail: Marcia.O.Midgett@ssa.gov.

SUPPLEMENTARY INFORMATION: 5.U.S.C. 5584 provides that a claim of the United States against a person arising out of an erroneous payment of pay or allowances, made on or after July 1, 1960, or arising out of an erroneous payment of travel, transportation or relocation expenses allowances, to an employee of the agency, may be waived in whole or in part by the authorized official, the head of the agency, and the Director of the Administrative Office of the United States Courts. The information we collect will enable the Office of the General Counsel to efficiently and effectively manage the records of benefit claim cases being litigated in court, to provide management information to the agency, and for research and statistical purposes.

In accordance with 5 U.S.C. 552a(r), we have provided a report to OMB and Congress on this new system of records.

Mary Ann Zimmerman,

Acting Executive Director,

Office of Privacy and Disclosure,

Office of the General Counsel.

SYSTEM NAME AND NUMBER:

Program Litigation File System, 60-0278.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Social Security Administration

Office of the General Counsel

Office of Program Law

Room G-401 West High Rise

6401 Security Boulevard

Baltimore, MD 21235; or Regional Chief Counsel offices in receipt of original requests (See

Appendix C – Regional Offices Addresses, 5. Regional Chief Counsel Addresses at

https://www.ssa.gov/privacy/sorn/app_c.htm for address information).

SYSTEM MANAGER(S):

Social Security Administration

Office of the General Counsel

Associate General Counsel for Program Law

Room G-401 West High Rise

6401 Security Boulevard

Baltimore, MD 21235

OGC.OPL.Controls@ssa.gov

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authorities for maintaining this system are the various statutes, regulations, rules, or orders pertaining to the subject matter of the litigation (e.g., the Social Security Act, 42 U.S.C. 405(g) and 1383(c), 28 U.S.C. 1291, Waiver of Overpayment of Pay Act, 5 U.S.C. 5584).

PURPOSE(S) OF THE SYSTEM:

We will use this system to manage records involved in litigation related to challenges of the agency's policies and procedures, the constitutionality of provisions of the Social Security Act, and benefit determinations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about individuals who are involved in litigation with SSA (in matters within the jurisdiction of SSA) or with the United States as defendants in civil matters seeking Social Security Title II (Retirement, Survivors, Disability Insurance (RSDI)) payments, Title XVI (Supplemental Security Income (SSI)) payments and other types of relief in benefit determinations.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of documents involved in court litigation related to the operation and administration of SSA's various programs under the Social Security Act, including but not limited to, litigation regarding RSDI and SSI payments, challenges of the agency's policies and procedures, and the constitutionality of provisions of the Social Security Act.

RECORD SOURCE CATEGORIES:

We obtain information in this system from existing SSA records; legal pleadings, discovery, and other records exchanged between parties and their attorneys in litigation and pre-litigation; courts; State and local governments; other Federal agencies; and other individuals and entities

with information relevant to cases involving SSA, its employees, the United States, or SSA records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

We will disclose records pursuant to the following routine uses; however, we will not disclose any information defined as “return or return information” under 26 U.S.C. 6103 of the Internal Revenue Service Code, unless authorized by statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or third party acting on the subject’s behalf.

2. To the Office of the President in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or a third party acting on the subject’s behalf.

3. To the Department of Justice (DOJ), a court or other tribunal, or another party before such court or tribunal, when:

(a) SSA, or any component thereof; or

(b) any SSA employee in his/her official capacity; or

(c) any SSA employee in his/her individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines the litigation is likely to affect SSA or any of its components,

is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal is relevant and necessary to the litigation, provided; however, that in each case, the agency

determines that disclosure of the records to DOJ, court or other tribunal, or another party is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

4. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We will disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.
5. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII) in SSA records in order to perform their assigned agency functions.
6. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:
 - (a) to enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, and the operation of SSA facilities; or
 - (b) to assist in investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operation of SSA facilities.
7. To the National Archives and Records Administration (NARA) under [44 U.S.C. 2904](#) and 2906.
8. To appropriate agencies, entities, and persons when:
 - (a) SSA suspects or has confirmed that there has been a breach of the system of records;

- (b) SSA has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, SSA (including its information systems, programs, and operations), the Federal Government, or national security; and
 - (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connections with SSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- 9. To another Federal agency or Federal entity, when SSA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:
 - (a) responding to a suspected or confirmed breach; or
 - (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- 10. To provide status of information on pending litigation and to manage the litigation workload. Records will be used in communicating with, among others, Federal and State agencies, private individuals, private attorneys, the United States Attorney, and other Federal officials.
- 11. To DOJ for the purpose of obtaining advice concerning disclosure of such information under the Freedom of Information Act (FOIA), 5 U.S.C. 552.
- 12. To a private firm under contract with SSA for the purpose of having that firm convert the records to machine-readable form, or collate, analyze, aggregate or otherwise refine the information in the records. The contractor will be required to maintain Privacy Act (PA) safeguards with respect to such records.

13. To Federal, State, and local government agencies, private individuals, private attorneys, individual law enforcement officers, and other persons or entities with relevant information for the purpose of investigating, settling, or adjudicating claims of violation of law by SSA or its employees and assisting with a subsequent litigation.
14. To private attorneys or union representatives, prior to formal litigation proceedings, when SSA determines that due process requires disclosure.
15. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties or exclusive representation concerning personnel policies, practices, and matters affecting working conditions.
16. To an appropriate licensing organization or Bar association responsible for investigating, prosecuting, enforcing or implementing standards for maintaining a professional licensing or Bar membership, if SSA becomes aware of a violation or potential violation of professional licensing or Bar association standards or to respond to inquiries or actions from such association about SSA employee conduct.
17. To the Office of Personnel Management, Merit Systems Protection Board, or the Office of Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigations of alleged or possible prohibited personnel practices, and other such functions promulgated in 5 U.S.C. Chapter 12, or as may be required by law.
18. To the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies

with Uniformed Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

19. To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator's awards when a question of material fact is raised, to investigate representation petitions and to conduct or supervise representation elections, and in connection with matters before the Federal Services Impasses Panel.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

We will maintain records in this system in paper and electronic form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

We will retrieve records by the court docket number and the names of the parties.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with NARA rules codified at [36 CFR 1225.16](#), we maintain the program law litigation records in accordance with the approved NARA Agency-Specific Records Schedule N1-047-10-04. Periods of retention vary depending on the type of litigation record. See N1-047-10-04. The Office of the General Counsel reserves the right to retain for an indefinite period certain records that, in the judgement of that office are of precedential value.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

We retain electronic and paper files with personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include, but are not limited to, the use of codes and profiles, personal identification number and password, and personal identification

verification cards. We keep paper records in locked cabinets within secure areas, with access limited to only those employees who have an official need for access in order to perform their duties.

We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RECORD ACCESS PROCEDURES:

Individuals may submit requests for information about whether this system contains a record about them by submitting a written request to the system manager at the above address, which includes their name, SSN, or other information that may be in this system of records that will identify them. Individuals requesting notification of, or access to, a record by mail must include (1) a notarized statement to us to verify their identity or (2) must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of, or access to, records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they are the individual they claim to be and that they understand that the knowing

and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

CONTESTING RECORD PROCEDURES:

Same as record access procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR 401.65(a).

NOTIFICATION PROCEDURES:

Same as record access procedures. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

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